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| 10/563,312 | 12/30/2005 | Robert H Wohleb | 090238-00177 | 6945 |
| 30993 7590 11/15/2011 CRAIN, CATON & JAMES FIVE HOUSTON CENTER 1401 MCKINNEY, 17TH FLOOR HOUSTON, TX 77010 | | | | |
| EXAMINER LUDLOW, JAN M | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 1773 | | | | |
| NOTIFICATION DATE | | DELIVERY MODE | | |
| 11/15/2011 | | ELECTRONIC | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary**Application No.**

10/563,312

Applicant(s)

WOHLEB ET AL.

Examiner

JAN LUDLOW

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1,3,4 and 7-14 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1,3,4 and 7-14 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 12/30/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CIBO)
Paper No(s) Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s) Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

1. Claims 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. In claim 13, lines 4-7 are unclear grammatically.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1, 3-4, 7-8, 10-11, 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Pawliszyn (5691206).

Pawliszyn teaches method and apparatus for extracting analytes from a liquid, such as water (col. 15, lines 15-25). Fluid is flowed through tube 30 by passing into the upper inlet and out of the lower outlet (instant "removing said liquid phase remaining analyte bearing sample) as described (col. 3, lines 31-45; Figure 3). The tube is made of, e.g., fused silica, graphite or polymer (col. 7, lines 43-44) and the interior coated with various adsorbents (col. 7, lines 45-50, 55-56 and col. 4, lines 1-5). Analysis of sample is achieved by inserting the tube into a vessel, contacting the tube with the water therein to extract analytes, removing the tube from the vessel, and inserting the tube into the injection port of a GC for thermal desorption of analytes (col. 4, lines 34-55). It is the examiner's position that fused silica tubes inherently have smooth walls.

1. Claims 9, 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Pawliszyn as applied to claims above, and further in view of Kovar (5882939).

Pawliszyn fails to teach an irregular interior to the tube.

Kovar teaches that sorbent substrates, such as those used in Pawliszyn can be made with roughened surfaces as an alternative to the traditional glass material (bridge col. 2-3).

It would have been obvious to make the tube of Pawliszyn with an irregular (roughened) surface as a known alternative to glass as taught by Kovar. Although Kovar does not teach the purpose of such roughening, one of ordinary skill would understand that roughening may, e.g., enhance adherence of sorbent.

2. Applicant's arguments filed August 12, 2011 have been fully considered but they are not persuasive.

3. Applicant argues that tube 30 of Pawliszyn is not an injection port liner, but the instant injection port liner is merely a tube (see, e.g., instant Figure 3), as is the tube of Pawliszyn. Calling the structure by a different name does not change its structure. Applicant argues that the fiber of Pawliszyn is retained in the syringe, but it is not. After the needle is inserted through the septum and into the injection port, the plunger is depressed and tube 30 is exposed in the injection port, thereby being "encapsulated" as claimed:

The needle is then removed from the bottle and is inserted through the septum in an injection port of a conventional gas chromatograph or other suitable analytical instrument. The plunger is then depressed again to expose the fiber and the organic analytes on the fiber are thermally desorbed and analyzed. The fiber remains in the analytical instrument during the analysis. When the analysis has been completed, the plunger is moved to the withdrawn position and the syringe is removed from the injection port.

4.

5. The instant claims do not preclude additional structures attached to the "injection port liner". In that the instant disclosure teaches that an injection port liner is a tube within the injection port, and Pawliszyn teaches a tube within the injection port, the claim limitations are met.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAN LUDLOW whose telephone number is (571)272-1260. The examiner can normally be reached on Monday, Tuesday and Thursday, 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Primary Examiner
Art Unit 1773

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